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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,953	04/10/2001	Paul E. Arrasmith	JEK/JJC/Arrasmith	6969

7590 07/01/2004

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EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT PAPER NUMBER

3724

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/828,953

Applicant(s)

ARRASMITH ET AL.

Examiner

Omar Flores-Sánchez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 2-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This action is in response to applicant's amendment received on 4/15/04.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by E. G.

Blachere (2,478,651).

Blachere discloses the invention including a circular rear base plate 12, plurality of food conveying paddles 6 being rectilinear in shape, the end of each of the paddle located adjacent the rear base plate being located at least in partially trailing relationship (see, Fig. 2), one forward located annular ring 22 and a constant angle greater than 0° and less than 30° or 40° (see, Fig. 1). Also, Blachere's device is capable of performing the function set forth in the preamble.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pinegar et al. (4,625,606) in view of E. G. Blachere (2,478,651).

Pinegar discloses the invention substantially as claimed including a non-rotating drum housing 27 having a cylindrical axis and an axially extending slot (see Fig. 1 and 2); at least one knife 26 mounted on the housing, an impeller 25, a base plate (40 or 41), at least one ring 45, a plurality of paddles (right & left portions of 30), an end of each paddle (at the ring 45) is located in a partially trailing relationship and each of said paddles is oriented to extend at an angle relative to a radius of the rear base plate (see Fig. 2). Pinegar does not show paddles with a rectilinear shape and extending at a constant angle relative to the axis of rotation. However, Blachere teaches the use of paddles 6 with a rectilinear shape and extending at a constant angle relative to the axis of rotation (see Fig. 1) for the same purpose of a drawing the food past a separator (drum 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pinegar's paddles, since Pinegar admits the blade typically is somewhat curved or arched, but not limited to the same, in order to provide a degree of concavity (line 65, col. 4 of Pinegar), by providing the paddles with the rectilinear shape as taught by Blachere since Blachere has shown this to be an acceptable equivalent that is known for the same purpose. See MPEP 2144.06.

### ***Response to Arguments***

6. Applicant argues that Blachere does not disclose "a radially inner axially extending edges being oriented to extend progressively towards the circumferences of the rear base plate and the at least one ring from the trailing end of the leading and thereof". However, Blachere teaches the

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radially inner axially extending edges being oriented to extend progressively towards the circumferences of the rear base plate 12 and the at least one ring 22 from the trailing end to the leading end thereof (see Fig. 2). Also, Blachere's vanes are extending at angle relative to the radius of the cylinder (see Fig. 2, where the radius is set between the center point 9 and the corner edge of one side of the vane 6).


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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June 27, 2004



KENNETH E. PETERSON  
PRIMARY EXAMINER